

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

V.

DAVID D. DELAY,

Defendant.

Case No. CR15-175RSL

ORDER

This matter comes before the Court on defendant David Delay's motion for disclosure of the sealed sentencing memoranda prepared in the sentencing of his codefendant Marysa Comer.

Dkt. # 547. Ms. Comer’s attorney defers to the Court’s discretion on this matter. Dkt. # 548. Defense counsel asserts those memoranda contain relevant information to Delay’s sentence given the overlapping nature of the two defendants’ cases. In addition, defense counsel asserts that Delay and Comer are similarly situated defendants and seeks the information to advocate for a sentence that avoids an unwarranted disparity. See 18 U.S.C. § 3553(a)(6) (directing sentencing courts to consider the goal of avoiding unwarranted sentence disparities among similarly situated defendants). The government opposes the motion. Dkt. # 551. In the alternative, the government asks that the Court designate the memoranda as Sensitive Material pursuant to a previously entered Protective Order, which would prohibit defense counsel and members of the defense team from sharing or reviewing the documents (or any copies) with Delay himself. Having considered the parties positions, the Court will grant defense counsel’s

1 request, subject to the sealed memoranda being designated Sensitive Material. In addition,
2 defense counsel may seek a transcript of Marysa Comer's public sentencing hearing using CJA
3 funds.

4 For the foregoing reasons, defendant's motion, Dkt. # 547, is GRANTED, subject to the
5 designations explained above.

6 The Clerk of Court is hereby directed to provide a copy of the sealed sentencing
7 memoranda filed in the sentencing of Marysa Comer. Dkt. ## 532, 534.

8 The Clerk of Court is further directed to designate these copies as "Sensitive Material—
9 Attorney's Eyes Only."

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11 Dated this 2nd day of March, 2018.

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14 Robert S. Lasnik
15 United States District Judge
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